



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
HATTIESBURG DIVISION

OWEN NELSON, #44870

PETITIONER

VERSUS

CIVIL ACTION NO. 2:06cv37KS-JMR

DOLAN WALLER, Warden;  
and JIM HOOD, Attorney General

RESPONDENTS

ORDER

This matter comes before this Court, sua sponte, for consideration of the transfer of this cause. The petitioner, an inmate currently incarcerated in the Wilkinson County Correctional Facility, Woodville, Mississippi, filed this request for habeas corpus relief pursuant to 28 U.S.C. § 2254. Petitioner states that on April 21, 1993, he was convicted of armed robbery in the Circuit Court of Marion County, Mississippi and sentenced to life imprisonment in the custody of the Mississippi Department of Corrections.

The petitioner has previously filed for habeas relief in this court challenging the same conviction, in civil action number 2:98cv259PG. On November 17, 1999, this court entered a final judgment which dismissed the action, with prejudice. The United States Court of Appeals for the Fifth Circuit denied petitioner's request for a certificate of appealability on April 27, 2000, appeal number 00-5196.

A petitioner who is filing a second or successive motion for habeas relief must first apply to the appropriate court of appeals for an order authorizing the district court to consider the successive motion. 28 U.S.C. § 2244(b)(3)(A). The petitioner has failed to submit any documentation demonstrating that he has obtained the required authorization from the United States Court of Appeals for the Fifth Circuit. Therefore, this Court has determined that in the

interest of justice pursuant to 28 U.S.C. § 1631 this cause should be transferred to the United States Court of Appeals for the Fifth Circuit for a determination whether this successive or second petition should be allowed. See In Re Epps, 127 F.3d 364 (5th Cir. 1997). Accordingly, it is hereby,

ORDERED that this petition for habeas corpus relief be, and the same hereby is, transferred to the United States Court of Appeals for the Fifth Circuit.

IT IS FURTHER ORDERED that the clerk of this court is directed to close this case pending the decision of the United States Court of Appeals for the Fifth Circuit.

SO ORDERED, this the 6th day of March, 2006.

s/ *Keith Starrett*  
UNITED STATES DISTRICT JUDGE